

IN THE CIRCUIT COURT OF THE COUNTY OF ST. CHARLES
STATE OF MISSOURI

LEROY HACKETT, JR.,)	
)	
Plaintiff,)	
)	
vs.)	Cause No.:
)	
MENARDS, INC., d/b/a)	Division:
MENARDS)	
)	
SERVE AT:)	
CSC-Lawyers Incorporating)	
Service Company)	
Jefferson City, MO 65101)	
)	
And)	
)	
JOHN DOE)	
HOLD SERVICE)	
)	
Defendants.)	

PETITION

COMES NOW, Plaintiff, Leroy Hackett, Jr., by and through his undersigned attorney, and for his Petition against Defendant Menards, Inc. d/b/a Menards (hereinafter referred to as Menards and John Doe) states the following:

1. Plaintiff, Leroy Hackett, Jr., is a resident of St. Louis County, Missouri.
2. Defendant Menards, Inc is a foreign corporation incorporated under the Laws of the State of Wisconsin doing business as "Menards" under a fictitious name registered with the State of Missouri, with its registered agent for receipt of service of process located at 221 Boliver Street, Jefferson City, Missouri 65101.

3. The Menards home improvement store located at 151 Spencer Road, St. Charles County, Missouri 63376.
4. Defendant, John Doe, is an employee of Defendant Menards.
5. On or about May 20, 2016, Plaintiff was a business invitee on Defendant Menards premises located at 151 Spencer Road, St. Peters, Missouri, when while delivering products to defendant Menards, an employee of Defendant Menards, Defendant John Doe, lifted several pallets of potted flowers with a forklift and failed to lift them with reasonable caution and/or expertise, permitted the pallets to fall upon Plaintiff causing him serious injury and damage.

COUNT I DEFENDANT MENARDS
NEGLIGENCE

COMES NOW, Plaintiff, Leroy Hackett, Jr., by and through his undersigned attorney, and for Count III of his Cause of Action against Defendant, Menards, states to the Court as follows:

6. Plaintiff restates and incorporates by reference the allegations contained in Paragraphs 1 through 5 above as if fully set forth herein.
7. On or about May 20, 2016, Defendant, Menards by and through its agents, servants and employees created a dangerous condition by attempting to remove a rack of pallets of potted flowers from Plaintiff's employer's trailer.
8. Defendant Menards by and through its agents, servants and employee knew, or by using ordinary care should have known, that lifting the entire rack of pallets

of potted flowers was dangerous and created a potential hazard in an area frequented by customers and other persons.

9. Defendant, Menards, by and through its agents, servants and/or employees, failed to exercise ordinary care and was therefore negligent in one or more of the follow respects:
 - a. Defendant Menards failed to barricade the trailer area where the racks of pallets were located prior to removal from the trailer;
 - b. Defendant Menards failed to provide proper, safe and clear egress for persons, including, Plaintiff who delivers products to Defendant Menards;
 - c. Defendant Menards failed to warn Plaintiff of the danger of racks of pallets falling from its forklift;
 - d. Defendant Menards failed to exercise reasonable care for the safety of Plaintiff.
10. As a direct and proximate result of Defendant's Menard's carelessness and negligence as detailed above, Plaintiff was injured and damaged. Plaintiff sustained physical injuries to his skull, brain, neck and body as a whole; Plaintiff required medical treatment and will require medical treatment in the future.
11. As a direct and proximate result of Defendant Menards carelessness and negligence as detailed above, Plaintiff incurred medical treatment expenses, will incur medical treatment expense in the future; Plaintiff's ability to work; labor and enjoy life has been and will be impaired, all to his detriment and damage.

WHEREFORE, Plaintiff prays this Court to enter judgment against Defendant Menards in an amount that is fair and reasonable in excess of Twenty-Five Thousand Dollars (\$25,000), together with his costs incurred and expended, and for further relief as the Court deems just and proper in the premises.

COUNT II DEFENDANT MENARDS
PREMISES LIABILITY

COMES NOW, Plaintiff, Leroy Hackett, Jr., by and through his undersigned attorney, and for his Count II of his Cause of Action against Defendant, Menards, states to the Court as follows:

12. Plaintiff restates and incorporates by referenced the allegations contained in Paragraphs 1 through 5 above as if fully set forth herein.
13. At all times relevant herein, Defendant Menards owned, operated, managed, maintained and/or controlled the home improvement store located at 561 Spencer, St. Peters, State of Missouri.
14. On May 20, 2016, Plaintiff was an invitee on “the premises”.
15. On May 20, 2016, Defendant Menards employee was removing racks of pallets of potted flowers from Plaintiff’s employer’s trailer.
16. Defendant Menards knew or by using ordinary care could have known that the removal of the racks of pallets from the trailer, was dangerous in that the forklift could lose control of said pallets, the forklift could collide with someone, or run over someone and was, therefore, careless and negligent in one or more of the following respects:

- a. Defendant Menards failed to barricade the trailer area where the racks of pallets of potted flowers were located prior to removal from the trailer;
- b. Defendant Menards failed to provide proper, safe and clear egress for persons, including, Plaintiff who delivers products to Defendant Menards;
- c. Defendant Menards failed to warn Plaintiff of the danger of racks of pallets of potted flowers falling from its forklift;
- d. Defendant Menards failed to exercise reasonable care for the safety of Plaintiff.

17. As a direct and proximate result of Defendant's Menard's carelessness and negligence as detailed above, Plaintiff was injured and damaged. Plaintiff sustained physical injuries to his skull, brain, neck and body as a whole; Plaintiff required medical treatment and will require medical treatment in the future.

18. As a direct and proximate result of Defendant Menards carelessness and negligence as detailed above, Plaintiff incurred medical treatment expenses, will incur medical treatment expense in the future; Plaintiff's ability to work; labor and enjoy life has been and will be impaired, all to his detriment and damage.

WHEREFORE, Plaintiff prays this Court to enter judgment against Menards in an amount that is fair and reasonable in excess of Twenty-Five Thousand Dollars (\$25,000), together with his costs incurred and expended, and for further relief as the Court deems just and proper in the premises.

COUNT III DEFENDANT MENARDS
RES IPSA LOQUITUR

COMES NOW, Plaintiff, Leroy Hackett, Jr., by and through his attorney, and for Count I of his Cause of Action against Defendant Menards, states to the Court as follows:

19. Plaintiff incorporates Paragraphs 1 through 5, states above by referenced as if fully set forth herein.
20. At all times mentioned in this Petition, Defendant Menards owned, operated, maintained and/or controlled the premises located at 151 Spencer Road, St. Peters, Missouri 65101, hereinafter referred to as the "The Premises".
21. On May 20, 2016, Plaintiff was an invitee on "the premises".
22. On May 20, 2016, Plaintiff was working for J.D. Distributing and delivering several racks of pallets of potted flowers to Defendant Menards and Defendant John Doe was utilizing a fork lift to remove said racks form Plaintiff's employer's trailer.
23. On May 20, 2016, Defendant John Doe, while utilizing a fork lift to remove several racks of potted flowers form the trailer, was lifting a rack of potted flowers while Plaintiff looked on. Defendant John Doe improperly and/or wrongfully lifted the rack of pallets of potted flowers as the entire rack of pallets fell onto Plaintiff causing injury and damage.
24. Defendant Menards on May 20, 2016 had the right to control Defendant John Doe and his use of Defendant's forklift.

25. Racks of pallets of potted flowers are not lifted several inches in the air and do not ordinarily fall striking invitees unless those in charge of the forklift use ordinary are.

26. At all times relevant herein, the rack of pallets of potted flowers was under the management and control of Defendant Menards.

27. Defendant Menards possessed supervisor knowledge or means of information as to not cause the racks of potted flowers to fall on Plaintiff.

28. From the fact that a rack of pallets of potted flowers fell from a fork lift and the reasonable inference therefrom the falling rack was directly and proximately caused by Defendant Menards negligence and failure to exercise ordinary care.

29. As a direct and proximate result of such negligence of Defendant Menards, Plaintiff sustained injuries and was damaged; Plaintiff sustained injury to his head, brain and body as a whole; Plaintiff required medical treatment.

30. As a direct and proximate result of Defendant's use of due care, Plaintiff incurred medical treatment expense, will incur treatment expenses in the future; Plaintiff's ability to work, labor and enjoy life was a will be impaired, all to his detriment.

WHEREFORE, Plaintiff prays this Court to enter judgment against Defendant Menards in an amount that is fair and reasonable in excess of Twenty-Five Thousand Dollars (\$25,000), together with his costs incurred and expended, and for further relief as the Court deems just and proper in the premises.

COUNT IV DEFENDANT JOHN DOE
NEGLIGENCE

COMES NOW, Plaintiff, Leroy Hackett, Jr, by and through his undersigned attorney, and for Count IV of his Cause of Action against Defendant, John Doe, states to the Court as follows:

31. Plaintiff restates and incorporates by reference the allegations contained in Paragraphs 1 through 5 above as if fully set forth herein.
32. On May 20, 2016, Defendant, John Doe, as an agent, servant and employee of Defendant Menards created a dangerous condition by improperly attempting/performing of lifting a full rack of pallets of potted flowers with a forklift in an area where items falling could strike customers and/or others in the area.
33. Defendant, John Doe, as an agent, servant and employee, knew or by using ordinary care should have known that lifting the full rack of pallets of potted plants was dangerous and created a potential hazard in an area frequently by customers and other persons.
34. Defendant, John Doe, as an agent, servant and/or employee of Defendant Menards failed to use ordinary care and therefore was negligent in one or more of the following respects:
 - a. Improperly attempting to lift the entire rack of pallets of the potted flowers;
 - b. Carelessly lifting the entire rack of pallets of potted flowers;

- c. Failing to barricade the area in which the rack of pallets of potted plants was lifted;
- d. Failing to warn of the danger of falling items including the entire rack of potted flowers; and,
- e. Failing to exercise reasonable care for the safety of Plaintiff and other invites on the premises.

35. As a direct and proximate result of Defendant John Doe's carelessness and negligence as detailed above, Plaintiff was injured and damaged. Plaintiff sustained physical injuries to his skull, brain, neck and body as a whole; Plaintiff required medical treatment and will require medical treatment in the future.

36. As a direct and proximate result of Defendant John Doe's carelessness and negligence as detailed above, Plaintiff incurred medical treatment expenses, will incur medical treatment expense in the future; Plaintiff's ability to work; labor and enjoy life has been and will be impaired, all to his detriment and damage.

WHEREFORE, Plaintiff prays this Court enter judgment against Defendant, John Doe, in an amount that is fair and reasonable in excess of Twenty-Five Thousand Dollars (\$25,000), together with costs herein incurred and expended, and for further relief as the Court deems just and proper in the premises.

LAW OFFICES OF KEVIN D. WAYMAN

/s/ Kevin D. Wayman

KEVIN D. WAYMAN, # 38184

Attorney at Law, LLC

2333 S. Hanley Road, Suite 101

St. Louis, Missouri 63144

(314) 525-7177

(314) 525-7178 Facsimile

Attorney for Plaintiff

kevinwayman@msn.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was efiled this 17th day of January, 2020. /psd

A copy of this Notice is to be provided by the Clerk of the Circuit Court to each of the parties initiating the suit at the time it is filed, and a copy is to be served on each other party in the suit with the summons and petition served on that party.

STATE OF MISSOURI)
) ss.
ST. CHARLES COUNTY, MISSOURI)

IN THE CIRCUIT COURT OF ST. CHARLES COUNTY, MISSOURI

Plaintiff(s),)
)
vs.) Cause # _____
)

Defendant(s).)

CONSENT TO MEDIATION FORM

I, the undersigned counsel of record in this case, hereby certify that I have discussed the subject of mediation under the Court's Alternative Dispute Resolution Program with my client(s) in this case and that:

_____ We believe that mediation would be helpful in this case and consent to the referral of the case to mediation upon the filing of similar consents by all other parties in the case.

_____ We do not consent to the referral of this case to mediation.

Signature

(Print Name)

Attorney for:

(Party or Parties)

Date: _____

IN THE CIRCUIT COURT OF THE COUNTY OF ST. CHARLES
STATE OF MISSOURI

LEROY HACKETT, JR.,)	
)	
Plaintiff,)	
)	
vs.)	Cause No.: 2011-CC00067
)	
MENARDS, INC., d/b/a)	Division: 7
MENARDS and John Doe,)	
)	
Defendants.)	

NOTICE OF HEARING

Please take Notice that this matter is set for hearing at 9:00 a.m. on Thursday, March 12, 2020 at 9 a.m. in Division 7 of the St. Charles County Court.

LAW OFFICES OF KEVIN D. WAYMAN
/s/ Kevin D. Wayman
KEVIN D. WAYMAN, # 38184
Attorney at Law, LLC
2333 S. Hanley Road, Suite 101
St. Louis, Missouri 63144
(314) 525-7177
(314) 525-7178 Facsimile
Attorney for Plaintiff
kevinwayman@msn.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was efiled this 27th day of January, 2020. /psd

NOTICE OF ENTRY
(SUPREME COURT RULE 74.03)

In The 11th Judicial Circuit Court, St. Charles County, Missouri
300 N 2ND STREET, SAINT CHARLES, MISSOURI 63301

LEROY HACKETT JR V MENARDS INC ET AL

CASE NO : 2011-CC00067

To: File

FILED

FEB 14 2020

**CIRCUIT CLERK
ST. CHARLES CO.**

YOU ARE HEREBY NOTIFIED that the court duly entered the following:

Filing Date **Description**

14-Feb-2020 Judge/Clerk - Note
DUE TO CONFLICTS IN THE COURTS SCHEDULE THIS CAUSE WILL NEED TO BE RESET FOR
3-19-2020 AT 9:00 AM. GB

Hearing Scheduled
Scheduled For: 19-Mar-2020 9:00 AM; DANIEL G PELIKAN; DIVISION 7 COURTROOM; St Charles Circuit
Div
PLAINTIFFS HEARING ON THIS MATTER
Event Location: 300 N 2Nd Street,Saint Charles, Mo



Clerk of Court

CC: File
JOHN DOE - No Address
LEROY HACKETT, JR.
MENARDS, INC D/B/A MENARDS

ECC: KEVIN DEAN WAYMAN

Date Printed : 14-Feb-2020

IN THE CIRCUIT COURT OF THE COUNTY OF ST. CHARLES
STATE OF MISSOURI

LEROY HACKETT, JR.,)	
)	
Plaintiff,)	
)	
vs.)	Cause No.: 2011-CC00067
)	
MENARDS, INC., d/b/a)	Division: 7
MENARDS and John Doe,)	
)	
Defendants.)	

MEMORANDUM

COMES NOW, Leroy Hackett, Jr., by and through his undersigned attorney, Kevin D. Wayman, and hereby files the Return of Service on Defendant, Menards, Inc d/b/a Menards, Registered Agent, CBC-Lawyers, Inc. Service Co.

LAW OFFICES OF KEVIN D. WAYMAN
/s/ Kevin D. Wayman
KEVIN D. WAYMAN, # 38184
Attorney at Law, LLC
2333 S. Hanley Road, Suite 101
St. Louis, Missouri 63144
(314) 525-7177
(314) 525-7178 Facsimile
Attorney for Plaintiff
kevinwayman@msn.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was efiled this 24th day of February, 2020. /psd



IN THE 11TH JUDICIAL CIRCUIT, ST. CHARLES COUNTY, MISSOURI

Judge or Division: DANIEL G PELIKAN	Case Number: 2011-CC00067
Plaintiff/Petitioner: LEROY HACKETT, JR.	Plaintiff's/Petitioner's Attorney/Address KEVIN DEAN WAYMAN 2333 S HANLEY RD STE 101 BRENTWOOD, MO 63144
Defendant/Respondent: MENARDS, INC D/B/A MENARDS	Court Address: 300 N 2nd STREET SAINT CHARLES, MO 63301
Nature of Suit: CC Pers Injury-Other	

RECEIVED

FEB 19 2020

COLE COUNTY
SHERIFF'S OFFICE

(Date File Stamp)

Summons In Civil Case

The State of Missouri to: **MENARDS, INC D/B/A MENARDS**
Alias:

CSC-LAWYERS INC SERVICE CO
221 BOLIVAR STREET
JEFFERSON CITY, MO 65101
COURT SEAL OF

ST. CHARLES COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

January 23, 2020 Date **SI CHERYL CROWDER** Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: **CSC LAWYERS, L.S.** (name) **Deaguel** (title).

☐ other: _____

Served at **350 E. High** (address)
in **Cole** (County/City of St. Louis), MO, on **02-20-2020** (date) at **8:00 AM** (time).

Sheriff Joe P. Whelan by **J. J. [Signature]**
Printed Name of Sheriff or Server Signature of Sheriff or Server
Must be sworn before a notary public if not served by an authorized officer.

Subscribed and sworn to before me on _____ (date).
(See)

My commission expires: _____ Date _____ Notary Public _____

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

4021
803



IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI

CIRCUIT JUDGE DIVISION

FILED

STATE OF MISSOURI

VS

MAR 19 2020

CAUSE NUMBER: Blanket Order

CIRCUIT CLERK
ST. CHARLES CO.

Blanket Order for
3-19-2020 Docket in Div 7

DATE: 3-17-2020

~~MEMORANDUM~~
ORDER

COMES NOW DEFENDANT IN PERSON PRO SE AND REQUESTS CONT TO HIRE
COUNSEL. CAUSE PASSED TO _____ @ 9:00 AM FOR COUNSEL STATUS.

CAUSE CONT TO _____ @9:00 AM/1:30 PM AT REQUEST OF _____ FOR:

_____ ARRAIGNMENT

_____ PLEA

_____ SENTENCING

_____ SETTING/DISPOSITION

_____ PROB. VIOLATION HRG.

_____ STATUS/RESTITUTION

_____ INDIGENCY HEARING

_____ COUNSEL STATUS

_____ PRE-TRIAL MOTIONS

_____ JURY / NON JURY TRIAL

DEFENDANT IS ORDERED TO APPEAR. _____ PROBATION SUSPENDED

DEFENDANT FAILS TO APPEAR---UPON VIOLATION REPORT FILED-AND/OR- REQUEST
OF PROBATION OFFICER. CAPIAS ISSUED. BOND SET AT: _____
CASH ONLY/ BY DEFT ONLY/ NO 10%

DEFT HAVING DISPOSED OF CHARGES IS ORDERED RELEASED FROM CUSTODY

In Compliance to the order issued by the
Supreme Court of MO and the Administrative
Order Issued by the Presiding Judge of the 11th
Judicial Circuit, All matters will be cont. from
3-19-2020 to 4-30-2020 at 9:00 A.M. except
in custody cases.

SO ORDERED:

ATTORNEY

ATTORNEY

PRO-SE DEFT

CRCLK100-10/07



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2011-CC00067 - LEROY HACKETT JR V MENARDS INC ET AL (E-CASE)

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[Parties & Attorneys](#)
[Docket Entries](#)
[Charges, Judgments & Sentences](#)
[Service Information](#)
[Filings Due](#)
[Scheduled Hearings & Trials](#)
[Civil Judgments](#)
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03/17/2020 ☐ Hearing Scheduled

Scheduled For: 04/30/2020; 9:00 AM ; DANIEL G PELIKAN; St Charles Circuit Div

☐ [Order for Continuance](#)

IN COMPLIANCE TO THE ORDER ISSUED BY THE SUPREME COURT AND THE ADMINISTRATIVE ORDER ISSUED BY THE PRESIDING JUDGE OF THE 11TH JUDICIAL CIRCUIT, ALL MATTERS WILL BE CONT FROM 3-19-2020 TO 4-30-2020 AT 9:00 AM. DGP/gdb

Filed By: DANIEL G PELIKAN

☐ Hearing Continued/Rescheduled

IN COMPLIANCE TO THE ORDER ISSUED BY THE SUPREME COURT AND THE ADMINISTRATIVE ORDER ISSUED BY THE PRESIDING JUDGE OF THE 11TH JUDICIAL CIRCUIT, ALL MATTERS WILL BE CONT FROM 3-19-2020 TO 4-30-2020 AT 9:00 AM. GB; Continuance Reason - DCTCN Docket Cancelled; Continuance Requestor - COURT Court

Hearing Continued From: 03/19/2020; 9:00 AM Hearing

02/24/2020 ☐ [Agent Served](#)

Document ID - 20-SMCC-125; Served To - MENARDS, INC D/B/A MENARDS; Server - COLE COUNTY SHERIFF'S DEPARTMENT; Served Date - 20-FEB-20; Served Time - 08:00:00; Service Type - Sheriff Department; Reason Description - Served; Service Text - SERVED L.S., CSC LAWYERS DESIGNEE.

☐ [Notice of Service](#)

Plaintiffs Memorandum of Return of Service on CSC Lawyers Inc Service Co for Menards; Affidavit of Service of Summons upon CSC Lawyers Inc Service Co for Menards Inc.

Filed By: KEVIN DEAN WAYMAN

On Behalf Of: LEROY HACKETT, JR.

02/14/2020 ☐ [Notice](#)

NOTICE OF HEARING SENT. GB

☐ Hearing Scheduled

Associated Entries: 03/17/2020 - Hearing Continued/Rescheduled

Scheduled For: 03/19/2020; 9:00 AM ; DANIEL G PELIKAN; St Charles Circuit Div

☐ Hearing Continued/Rescheduled

Hearing Continued From: 03/12/2020; 9:00 AM Hearing

☐ Judge/Clerk - Note

DUE TO CONFLICTS IN THE COURTS SCHEDULE THIS CAUSE WILL NEED TO BE RESET FOR 3-19-2020 AT 9:00 AM. GB

01/27/2020 ☐ Hearing Scheduled

Filed By: KEVIN DEAN WAYMAN

Associated Entries: 02/14/2020 - Hearing Continued/Rescheduled**Scheduled For:** 03/12/2020; 9:00 AM ; DANIEL G PELIKAN; St Charles Circuit Div☐ **Notice of Hearing Filed**

Plaintiffs Notice of Hearing on this Matter to be Heard March 12 2020 at 9 am in Division 7.

Filed By: KEVIN DEAN WAYMAN**On Behalf Of:** LEROY HACKETT, JR.**01/23/2020** ☐ **Summons Issued-Circuit**

Document ID: 20-SMCC-125, for MENARDS, INC D/B/A MENARDS. SUMMONS SAVED AND ATTACHED IN PDF FORM FOR ATTORNEY TO RETRIEVE FROM SECURE CASE.NET. GNC

01/17/2020 ☐ **Filing Info Sheet eFiling****Filed By:** KEVIN DEAN WAYMAN☐ **Pet Filed in Circuit Ct**

Petition.

On Behalf Of: LEROY HACKETT, JR.☐ **Judge Assigned**